

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

ERICKSON PRODUCTIONS INC, et al.,
Plaintiffs,
v.
KRAIG RUDINGER KAST, et al.,
Defendants.

Case No.[5:13-cv-05472-HRL](#)

**ORDER SETTING BRIEFING AND
HEARING RE MOTION TO AMEND
JUDGMENT**

Re: Dkt. Nos. 184, 186, 189, 192, 194

This court ordered briefing on the issue whether, during the pending appeal, this court has jurisdiction to entertain the motion to amend the judgment filed by Erickson Productions, Inc. and Jim Erickson (collectively, “Erickson”) (Dkt. 198, Interim Order).¹ As discussed in the Interim Order, the jurisdictional inquiry focuses “on whether the trial court is being asked to alter the status quo with respect to the appeal.” In re Mirzai, 236 B.R. 8, 10 (9th Cir. 1983). Erickson argues that the motion to amend is simply part of their effort to enforce the judgment and will not impact matters on appeal. The opposition argues that the motion seeks a substantive change that impermissibly expands the judgment to include persons and entities that have no connection to this litigation. Erickson points out that courts have concluded that adding judgment debtors under Fed. R. Civ. P. 69(a) is not a substantive amendment going to the merits of the case. This

¹ The Interim Order obviated the original briefing schedule on the motion. Thus, prior requests for extensions of the original deadlines (Dkt. 192, 194) are deemed moot.

1 court therefore will entertain the arguments on the motion. Nevertheless, no one has cited any
2 cases directly on point, and this court remains dubious about the particular relief Erickson seeks.
3 And, the fact that this court is willing to consider the matter should not be taken as any indication
4 whether or not, on the facts of this case, certain persons or entities should be added as judgment
5 debtors.

6 The court has received Kast's substantive opposition to the motion to amend. (Dkt. 195-
7 196). His motion for protective order and motion to quash subpoenas (Dkt. 184, 186), which raise
8 related issues, will be considered as part and parcel of his opposition. Briefing deadlines on
9 Erickson's motion to amend are otherwise re-set as follows:

10 Baker's and Black Oak Trust's opposition papers are due by **May 5, 2017**.

11 Erickson's reply is due by **May 12, 2017**.

12 **All are reminded that hard copies of briefs and supporting papers are due in**
13 **chambers the next court day after the papers are e-filed.**

14 Erickson having requested oral argument on the motion to amend, a hearing is set for **May**
15 **30, 2017, 10:00 a.m.**

16 SO ORDERED.

17 Dated: April 24, 2017

18
19
20 HOWARD R. LLOYD
United States Magistrate Judge
21
22
23
24
25
26
27
28

1 5:13-cv-05472-HRL Notice has been electronically mailed to:

2 Kevin P McCulloch kevin@mccullochiplaw.com, lesly@mccullochiplaw.com

3 Richard Walter Lund rlund@plagemanlund.com

4 Robert K Wright rkwlaw@earthlink.net

5 6 5:13-cv-05472-HRL Notice sent by U.S. mail to:

7 Kraig R. Kast
P.O. Box 4612
8 Foster City, CA 94404

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
United States District Court
Northern District of California